

**CALENDAR ITEM
C32**

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06/23/11
WP 4330.1
R. Barham

**TERMINATION AND ISSUANCE OF A
GENERAL LEASE - RECREATIONAL USE**

LESSEES:

Brendan Joseph Cassin and Isabel B. Cassin, Trustees of the Cassin Family Trust U/D/T dated January 31, 1996

APPLICANTS:

Joseph P. Baratta, II and Abigail W. Baratta

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 5486 North Lake Boulevard, near Carnelian Bay, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier, boat lift, small boat lift, sundeck with stairs, and one mooring buoy as shown on Exhibit A.

LEASE TERM:

10 years, beginning August 16, 2010.

CONSIDERATION:

Pier, Boat Lift, Small Boat Lift, and One Mooring Buoy: No monetary consideration pursuant to Public Resources Code section 6503.5.

Sundeck with Stairs: \$359 per year, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

SPECIFIC LEASE PROVISIONS:

Insurance:

Liability insurance with coverage of no less than \$1,000,000.

Other:

1. The proposed lease contains a provision requiring the Applicants to obtain authorization from the Tahoe Regional Planning Agency (TRPA) for the mooring buoy within two years

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after the adoption of a Final Environmental Impact Statement (FEIS) for the Lake Tahoe Shorezone Ordinance Amendments and approval of the amended ordinances. This is a continuation of the process the Commission used from approximately 1995 to October 2008, when TRPA adopted an FEIS and Ordinance Amendments supported by the FEIS. In September 2010, the U.S. District Court invalidated the FEIS and nullified the ordinances. When additional information is available, Commission staff will advise the Commission on any suggested modifications to the process used by the Commission pending resolution of the TRPA FEIS and ordinance issues.

2. The lease contains provisions that the existing sundeck with stairs, as shown on the attached Exhibit A, cannot be expanded, and if repairs to any portion of the existing sundeck cost more than 50% of the base value of the sundeck, then the sundeck must be removed from the lease premises.

OTHER PERTINENT INFORMATION:

1. Applicants own the upland property adjoining the lease premises.
2. On June 1, 2009, the Commission authorized a General Lease – Recreational Use with Brendan Joseph Cassin and Isabel B. Cassin, Trustees of the Cassin Family Trust U/D/T dated January 31, 1996. That lease will expire on December 12, 2018. On August 16, 2010, the Lessees deeded the upland property to Joseph P. Baratta, II and Abigail W. Baratta. Applicants are now applying for a new General Lease – Recreational Use.
3. Applicants are natural persons who own the littoral land that is improved with a single-family dwelling. The existing pier, boat lift, small boat lift, and one mooring buoy are exempt from consideration pursuant to Public Resources Code section 6503.5. The sundeck and stairs do not qualify for rent-free status because they are not constructed for the docking or mooring of boats.
4. **Termination of Existing Lease:** Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15060(c)(3)), staff has determined that this activity is not subject to the provisions of CEQA because it is not a "project" as defined by the CEQA and the State CEQA Guidelines.

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Authority: Public Resources Code Section 21065 and Title 14, California Code of Regulations, section 15060(c)(3) and 15378.

5. **Issuance of New Lease:** Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), staff has determined that this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; Title 2, California Code of regulations, section 2905 (a)(2).

Authority: Public Resources Code section 21084 and Title 14, California Code of Regulations, section 15300 and Title 2, California Code of Regulations, section 2905.

6. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et seq., but such activity will not affect those significant lands. Based upon staff's consultation with the persons nominating such lands and through the CEQA review process, it is staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBIT:

- A. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Termination of Existing Lease: Find that the activity is not subject to the requirements of CEQA pursuant to Title 14, California Code of Regulations, section 15060(c)(3) because the activity is not a project as defined by Public Resources Code section 21065 and Title 14, California Code of Regulations, section 15378.

Issuance of New Lease: Find that the activity is exempt from the requirements of CEQA pursuant to Title 14, California Code of Regulations, section 15061 as a categorically exempt project, Class 1, Existing Facilities; Title 2, California Code of regulations, section 2905 (a)(2).

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SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code sections 6370, et seq.

AUTHORIZATION:

1. Authorize termination of General Lease – Recreational Use, Lease No. PRC 4330.1, issued to Brendan Joseph Cassin and Isabel B. Cassin, Trustees of the Cassin Family Trust U/D/T dated January 31, 1996, effective August 15, 2010.
2. Authorize issuance of a General Lease – Recreational Use to Joseph P. Baratta, II and Abigail W. Baratta, beginning August 16, 2010, for a term of 10 years, for the continued use and maintenance of an existing pier, boat lift, small boat lift, sundeck with stairs, and one mooring buoy as shown on Exhibit A attached and by this reference made a part hereof; annual rent in the amount of \$359 for the sundeck and stairs, with the State reserving the right to fix a different rent periodically during the lease term as provided in the lease; no monetary consideration pursuant to Public Resources Code section 6503.5 for the pier, boat lift, small boat lift, and mooring buoy; and liability insurance with coverage of no less than \$1,000,000.